



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS LEGISLATION COMMITTEE

Estimates

(Public)

TUESDAY, 25 JUNE 2024

CANBERRA

CONDITIONS OF DISTRIBUTION

This is an uncorrected proof of evidence taken before the committee.
It is made available under the condition that it is recognised as such.

BY AUTHORITY OF THE SENATE

[PROOF COPY]

ECONOMICS LEGISLATION COMMITTEE

Tuesday, 25 June 2024

Members in attendance: Senators Bragg, Colbeck, McKim, O'Neill, Rennick, Roberts, Dean Smith, Stewart and Walsh

TREASURY PORTFOLIO

In Attendance

Senator Gallagher, Minister for Finance, Minister for Women, Minister for the Public Service

Treasury

Revenue Group

Ms Diane Brown, Deputy Secretary

Mr Damien White, First Assistant Secretary, Tax Analysis Division

Ms Laura Berger-Thomson, First Assistant Secretary, Personal and Indirect Tax and Charities Division

Ms Susan Bultitude, Assistant Secretary, Corporate and International Tax Division

Ms Kathryn Davy, Assistant Secretary, Corporate and International Tax Division

Dr Yi Yong Cai, Assistant Secretary, Tax Analysis Division

Mr Darren Kennedy, Assistant Secretary, Tax Analysis Division

Dr Louise Rawlings, Assistant Secretary, Tax Analysis Division

Ms Emma Baudinette, Assistant Secretary, Personal and Indirect Tax and Charities Division

Ms Carlie Beach, Acting Assistant Secretary, Personal and Indirect Tax and Charities Division

Mr Bede Fraser, Assistant Secretary, Personal and Indirect Tax and Charities Division

Portfolio Agencies

Australian Taxation Office, including Australian Business Registry Services

Mr Rob Heferen, Commissioner of Taxation

Ms Jacqui Curtis, Chief Operating Officer, Enterprise Strategy and Corporate Operations

Mr Jeremy Hirschhorn, Second Commissioner, Client Engagement Group

Mr David Allen, Second Commissioner, Service Delivery

Ms Kirsten Fish, Second Commissioner, Law Design and Practice

Mr Matthew Hay, Acting Chief Information Officer, Enterprise Solutions and Technology

Ms Janine Bristow, Chief Finance Officer, ATO Finance

Mr Bradley Chapman, Deputy Commissioner, Enterprise Strategy & Design

Mr Hector Thompson, Deputy Commissioner, International Support and Programs

Ms Clare Gunning, Deputy Commissioner, ATO Corporate

Ms Emma Rosenzweig, Deputy Commissioner, Superannuation and Employer Obligations

Mr Nicholas Shizas, Assistant Commissioner, ATO General Counsel

Ms Rebecca Saint, Deputy Commissioner, Client Experience

Ms Alison Stott, Deputy Commissioner, ATO People

Ms Fiona Dillon, Chief Tax Counsel, Law Design and Practice

Mr Ben Kelly, Deputy Commissioner Policy, Analysis and Legislation

Ms Elissa Walker, Deputy Commissioner, Digital Delivery

Mr Grant Brodie, Deputy Commissioner, Client Account Services

Ms Jillian Kitto, Acting Deputy Commissioner, Lodge and Pay

Tax Practitioners Board

Mr Peter de Cure, Chair

Mr Michael O'Neill, Chief Executive Officer and Secretary

Ms Janette Luu, Assistant Secretary

Australian Charities and Not-for-Profits Commission

Ms Sue Woodward AM, Commissioner

Ms Natasha Sekulic, Assistant Commissioner and General Counsel

Committee met at 19:03

CHAIR (Senator Walsh): I declare open this hearing of the Senate Economics Legislation Committee into the 2024-25 budget estimates. I begin by acknowledging the traditional custodians of the land on which we meet today and pay my respects to their elders past and present. I extend that respect to Aboriginal and Torres Strait Islander people here today.

The committee is due to report to the Senate on Tuesday 2 July 2024, and it has fixed Friday 9 August 2024 as the date for the return of answers to questions taken on notice for today's proceedings. The committee's proceedings will examine the Department of the Treasury's Revenue Group, ATO, Tax Practitioners Board and the ACNC.

Under standing order 26, the committee must take all evidence in a public session. This includes answers to questions on notice. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also contempt to give false or misleading evidence.

The Senate has endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in estimates are relevant questions for the purpose of estimates hearings. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees, unless the parliament has expressly provided otherwise. The Senate has resolved also that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

Witnesses are reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised. I incorporate the public interest immunity statement into the *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: I remind all senators that as we continue our work implementing the *Set the standard* report, as chair, I will ensure that proceedings are conducted in an orderly, respectful and courteous way.

The committee has agreed to authorising all media outlets to record the proceedings of the public hearing, subject to the broadcasting resolutions in the standing orders and the following conditions: media entry is subject to the capacity of the room; the committee or a witness may object to being recorded, and the committee may require that recording cease; recording must not occur from behind the committee or between the committee and witnesses and must not otherwise interfere in the proceedings; computer screens and documents belonging to senators, members and witnesses must not be recorded; and flashes must not be used. The directions of the committee secretariat must be followed at all times.

Department of the Treasury
Australian Taxation Office
Tax Practitioners Board
Australian Charities and Not-for-profits Commission

[19:06]

CHAIR: I now welcome Senator the Hon. Katy Gallagher, Minister for Finance. I also call officers from the Department of the Treasury's Revenue Group as well as representatives from the ATO, the Tax Practitioners Board and the Australian Charities and Not-for-profits Commission. Would representatives of the ATO like to give their opening statement? Mr Heferen, welcome to your first appearance before this committee in your new role.

Mr Heferen: Thank you, Chair. I've had the privilege of appearing before this committee quite a bit in Ms Brown's role but not as commissioner. I'd like to start by acknowledging what a privilege it is to be appointed as Australia's 13th Commissioner of Taxation and to have the opportunity to appear before the committee this evening. I've now been in the job nearly four months. In that time I've deepened my appreciation for the work of the tax office. By, that I'm referring to the work delivered by approximately 20,000 ATO staff. We have an important role for the community and government: to collect the tax legally due, with expertise and integrity and at the lowest cost to both the government and taxpayers. The federal budget included a range of measures to help us do this.

The Counter Fraud Program bolsters our ability to fight back against the growth we see in identity-crime-enabled fraud and scaled fraud attacks across our digital services. These attacks are agile, prolonged and persistent. The risk is amplified by global threats, organised crime and increasing numbers of data breaches in the community. Under these new measures, we will continue to grow the capability and tools we need to respond to fraud in an increasingly agile and sophisticated way. We'll make it easier for taxpayers whose identity has been compromised by helping them adopt stronger security and improving how we address fraudulent activity on their ATO accounts. We're also implementing real-time messaging to protect taxpayers against high-risk online transactions.

Extending the Tax Avoidance Taskforce ensures the largest and wealthiest taxpayers pay the right amount of tax. The taskforce has helped generate more than \$30 billion of revenue over seven years. For Australia, with our high dependence on company income tax, investment in this work is critical.

While we work hard for the Australian community, we sometimes make mistakes. When this happens, we know it's important for us to acknowledge that this has occurred. Our communication around historical debts placed on hold was confusing, and we apologise. The community can rightly expect us to communicate and act with sensitivity, compassion and sound judgement. The government has announced it intends to provide us with a discretion to help us manage the oldest of these historical debts and treat them in line with community

expectations. The announced measure will ensure that affected small businesses, individuals and not-for-profit entities can receive the refunds they are expecting.

However, we can't shy away from the significant amount of tax debt owed, with collectable debt now over \$50 billion. This debt is not disputed. Most of it has been self-reported, and it is largely made up of amounts that have been withheld from employees' wages or collected from consumers as GST but not passed on to the government.

We acknowledge the community is feeling the shift as we normalise our debt collection practices. I'd like to emphasise we'll always have a pathway for those facing genuine hardship. There are a range of actions the ATO can take to support taxpayers affected by financial hardship or domestic violence, including deferrals, use of hardship provisions, withdrawing director penalty notices, and remitting general interest charges. It is important that taxpayers speak to the ATO early so we can pause any action and offer support.

Aside from tax debt we also play a role in administering debt repayments for student loans. While questions about policy settings are for the education department, from an administrative perspective the budget measure means that once the law is passed we will work to apply the relevant credits to accounts. Those with a student loan don't need to do anything.

To go back to my opening reflection, it is a privilege to lead over 20,000 hard-working public servants across Australia to deliver the important work of the tax office. I'd like to acknowledge former commissioner Chris Jordan for building the strong team I'm honoured to lead.

Looking ahead, I'm optimistic about the opportunities for the ATO to build on our existing work and continue to deliver for the Australian community and the government. We look forward to assisting the committee.

CHAIR: Thank you very much, Mr Heferen. The committee tables your opening statement. Ms Woodward, welcome back and thank you again for your opening statement. In the interest of time, would you be happy for us a table it?

Ms Woodward: Yes.

CHAIR: Thank you very much. We will also table your opening statement, which has been circulated. Did you have an opening statement, Mr de Cure?

Mr de Cure: No.

CHAIR: Thank you very much. We'll proceed to questions.

Senator BRAGG: Can I ask about the critical minerals production tax credit proposal?

Ms Brown: From a policy perspective that would be Treasury.

Senator BRAGG: Who will be eligible to claim either the critical minerals production tax credit or the green hydrogen tax credit?

Ms Brown: I might ask Ms Bultitude to go through the eligibility conditions as we currently know them.

Ms Bultitude: Both the critical minerals and the green hydrogen production tax credits will be available to corporations in Australia that are Australian tax residents. They will need to comply with a number of criteria. Under the hydrogen production tax credit, they would need to have produced green hydrogen that was eligible for that credit in the year. Under the critical minerals production tax credit, they would need to have done the eligible critical minerals processing, defined in the legislation, in that particular year to claim the credit.

Senator BRAGG: How many companies will claim it, do you think?

Ms Bultitude: I don't have estimates in front of me of the number of companies that will claim it. There are no limits on the number of companies that will claim it. It is new industries. Both of these are industries that are very nascent in Australia, so of course we expect there to be a number of new entrants.

Senator BRAGG: You don't know how many companies will claim it, but is there a cost in the budget?

Ms Bultitude: Yes, both of those were costed in the budget.

Senator BRAGG: What's the cost?

Ms Bultitude: For the hydrogen production tax credit: \$6.7 billion over 10 years.

Senator BRAGG: But you don't know how many companies will claim it?

Ms Bultitude: We don't know how many companies will come in and enter. We have best estimates based on the data available from DISR and from a number of sources of what will be produced.

Senator BRAGG: So, you put a number against something, but you haven't worked out how many companies might claim it?

Ms Brown: As Ms Bultitude said, it's based on the production, and we have estimates of the production based on working closely with DISR and DCCEEW.

Senator BRAGG: What about the green hydrogen production tax credit, as opposed to the critical minerals production tax credit? Is that \$6.7?

Ms Bultitude: \$6.7 billion for the green hydrogen—

Senator BRAGG: Is that combined, or that's one?

Ms Bultitude: That's for the green hydrogen. It's \$7.0 billion for the critical minerals production tax credit.

Senator BRAGG: How much all together?

Ms Bultitude: That's \$13.7 billion over the decade.

Senator BRAGG: Is there any modelling or analysis that you've done that you can table, that you could provide the committee?

Ms Brown: Modelling of what nature?

Senator BRAGG: I'm interested in how you've devised what are very significant numbers in the budget, seemingly without any sense of how many organisations might actually be making the claim. If you don't have that information, I thought maybe you'd have some other modelling or analysis.

Ms Brown: We might have Mr White to come up to the table. The costing is done by the Tax Analysis Division. As we said earlier, the costing is based on production forecasts. It is based on production rather than entities. The entity claims the deduction.

Senator BRAGG: Are you able to provide—

Ms Brown: Mr White can elaborate on that.

Mr White: For the hydrogen and critical minerals tax incentives, on hydrogen we worked closely with the Department of Climate Change, Energy, the Environment and Water, and on the critical minerals we worked closely with the Department of Industry, Science and Resources, to look at the best available data that we had about how much production of both of those products might be done in the period and meet the criteria.

As we've said, that is the main thing that's important to us. It doesn't matter if it's five, 10 or 15 different companies that claim: it's the amount of production that's important. With those departments we basically looked at the data that was available about what we thought was going to happen in these industries. As we've said, both of them are nascent industries, especially hydrogen. We basically have an estimate that without this production tax credit and without the Hydrogen Headstart program there will be very little green hydrogen produced over the period. So we basically have an assumption that pretty much all of the hydrogen production that we've got that adds up to the \$6.7 billion is induced by this policy.

On critical minerals, we already have some critical minerals production happening in the country, but we've assumed that there is more critical minerals production that is induced by this policy.

Senator BRAGG: So you're saying that virtually all the production will occur on the back of this intervention?

Mr White: For hydrogen, there's very little. At the beginning, yes, almost all the green hydrogen will be eligible. We expect that over time you won't need the incentive and the green hydrogen industry will stand on its own two feet, in effect.

Senator BRAGG: What about critical minerals? How much additional production will occur because of this intervention?

Mr White: I might have to take that on notice. We do have a number.

Senator BRAGG: I'm surprised you don't know.

Mr White: No, I do know.

Senator BRAGG: Yes. I thought you would.

Mr White: I think it's around three million tonnes of additional critical mineral output.

Ms Brown: Based on evidence and data.

Senator BRAGG: If you could provide that detail, that would be helpful. Are there other Treasury tax incentives that have been subject to a sunset after 17 years or whatever it is?

Ms Brown: The duration is for 10 years. It starts at 2027 and I think goes to 2039-40. You can claim for a maximum of 10 years. That is to allow the market failure to be corrected. A lot of these measures—in particular,

hydrogen—are around recognising that currently the market doesn't value the green premium that's attached to green hydrogen. But with scale and with the transition to the economy, over time that premium would start to be priced in and people would get the value, and so you wouldn't need the incentive.

Senator BRAGG: I'd be interested in your answers—on notice maybe assuming you don't have all the information right now. What was the production of critical minerals and hydrogen going to be anyway? What was the industry going to do anyway? You can walk around lots of different businesses in Australia that are already developing things like solar panels and the like. You have to ask yourself, if you're going to have a government intervention, what else would it actually generate in addition to what they're doing without any taxpayer support?

Ms Brown: In relation to the hydrogen type of incentive in particular, it is about bringing investment forward. For the critical minerals, a lot of that is that the market doesn't value the national resilience or the resilience in the supply chains and the national security benefits of that. So it was compensating for that.

Senator BRAGG: I'm hoping not to predict your answer here, but there are a lot of different ways you can do these things. You could have broad based tax cuts, you could have R&D tax offsets or you could have a patent box. Why did you arrive at this particular option?

Ms Brown: We did look at a range of options, and you're right: the nature of the tax intervention that you make will depend on the barrier that you're addressing. For the barrier here, being that the market's not factoring in a cost that continues over the cycle of the product, this kind of production tax incentive was appropriate. I'll let Ms Bultitude elaborate on that.

Senator BRAGG: We're talking about \$13 billion, aren't we?

Ms Brown: In total.

Senator Gallagher: Over 10 years.

Senator BRAGG: Why did you decide to go down this path?

Ms Bultitude: As Ms Brown said, right now there is a gap between the cost of producing green hydrogen—I'll stick with green hydrogen for now, but it's parallel with critical minerals—and the price that the market is willing to pay for that green hydrogen, so the costs are higher than the price. With that gap, it means that there's no commercial incentive for producers to produce in Australia. They'd be making a loss per unit of output. We judged that providing a tax credit directly for production is the best way of targeting that gap, that market failure of not pricing in the benefit of having low-emissions production. Subsidising that directly will breach that cost and encourage the market to come in and produce the hydrogen.

Senator BRAGG: Did you receive any submissions or representations from major shareholders of hydrogen organisations recommending something like this?

Ms Bultitude: We engaged quite extensively with the Department of Climate Change and Energy and with the Department of Industry, Science and Resources in working on these. We also have had meetings from time to time with stakeholders in the industries talking about the barriers to production, but, no—

Senator BRAGG: That wasn't my question, with the greatest respect. Did you have representations—did you receive letters and e-mails from hydrogen companies and other organisations in this field—recommending a production tax credit?

Senator Gallagher: I can say this was work that was done across whole of government. It involved Minister Bowen and the work that he's been doing. It involved the Treasury, obviously, in some of the costings and looking at different ways to incentivise and bring forward this type of investment. I don't think you would necessarily think Treasury would be engaged with stakeholders; they would probably come through Climate Change and Energy.

Senator BRAGG: So they didn't?

Ms Brown: I can take that on notice and check. The work also occurred across the department. Macroeconomic Group led a lot of the development of the framework, and we've been focusing—

Senator BRAGG: Let me ask you this, then. This is something that you don't need to take on notice. Are you aware of organisations in this field that were recommending a production tax credit?

Ms Bultitude: There are a range of recommendations out there.

Senator BRAGG: I'm sure there are.

Ms Bultitude: Certainly, once the US Inflation Reduction Act came out, and with some other interventions globally, there have been a number—you would have read about them in the newspaper—of organisations and individuals recommending that Australia do a similar thing.

Senator BRAGG: There are a lot of vested interests in all of these things, so that's why it's a reasonable line of inquiry.

Senator Gallagher: One of the neat results of the way we've gone about it is we're incentivising production.

Senator BRAGG: I think the risk of crony capitalism is still there, Minister, I'm afraid to—

Senator Gallagher: Sorry?

Senator BRAGG: I think the risk of crony capitalism and other risks are still very clear in any model where government is going to dish out taxpayer funds.

Senator Gallagher: In an industry sense, we're providing a tax incentive on the production of that type of energy. So I don't know what you're talking about, in terms of the risks that you're referring to as 'crony capitalism'. I'm not aware of that.

Senator BRAGG: Industry always looks for the best possible deal for industry—

Senator Gallagher: Well, yes.

Senator BRAGG: and our job in this building is to get the best deal for taxpayers. That's why—

Senator Gallagher: That's right. So you can look at equity, you can look at grants, but we've chosen not to go down that path but to incentivise the production—to actually pay when they're producing something.

Senator BRAGG: Well, you're doing equity with all your other slush funds you've set up—

Senator Gallagher: They're not slush funds.

Senator BRAGG: They are.

Senator Gallagher: Not in the traditional sense of the coalition slush fund.

Senator BRAGG: They're terrible funds. They're hopeless funds. They've got all your union mates on them. Let me ask you finally, on this line about this production tax credit, because I think this is the other pertinent question: does it apply to any critical mineral, including ones that are already commercially successful? Can any critical mineral apply for this tax credit?

Ms Bultitude: I might clarify that right now Australia mines a lot of critical minerals but we don't process many critical minerals. Very little processing happens in Australia. This production tax credit targets that processing, moving further down the value-add chain. All 31 critical minerals currently on the Critical Minerals List will be eligible, but it's for that processing component. The mining and extraction component is not what's being targeted by this measure.

Senator O'NEILL: My questions in the first instance are to the ACNC. There has been some recent reporting with regard to a charity called Coalition for Conservation. Are you aware of this Coalition for Conservation?

Ms Woodward: I'm afraid I can't particularly recall that media. There has been a lot of media about charities in the lead-up to this. Could you perhaps elaborate that I might remember?

Senator O'NEILL: Sure. I might be able to table some documents, which are being printed at the moment, that might help trigger your memory as well. I've been looking through the activities of this Coalition for Conservation. Most of it seems to be engaging with Liberal and National Party members about climate politics. I'd be surprised if somebody in your department had not made you aware of this coalition, because it has been quite extensively reported. Is there anybody here who can assist you with this?

Ms Woodward: No, I'm afraid I don't have that to hand. Is there a particular concern about what they're doing?

Senator O'NEILL: There's a very limited scope of what this entity is doing that appears to me, as I look at it, to breach the restrictions on party political activities that are part of what I understand you oversee as the ACNC.

Ms Woodward: We oversee 60,000 charities. That's not to diminish the particular case. I'm very happy to take on notice if there's any concern about them breaching their obligations under the act. They are able to do advocacy, but, as you highlight, if it's in relation to political advocacy, which would be advocating for a particular member of Parliament or a particular party, that would be different and could be a disqualifying purpose.

Senator O'NEILL: So party political activities would be something that you would not accept as part of a charity's work?

Ms Woodward: Perhaps the best example I could give is prior to an election. Prior to the last election, people raised concerns that charities were campaigning for a particular party. They were investigated, and some were issued with regulatory advice or directed to change their activities. That is quite different to advocacy generally, which is a permitted charitable activity. Advocacy generally is more about a particular cause, so it might be about

conservation. It might be the full range of activities. Advocacy is a legitimate way to achieve that charitable purpose.

Senator O'NEILL: Can I provide you with a document that is an indication. The material that's coming to you now is material that I think indicates what has been happening with this entity over some period of time. The particular one I want to draw your attention to right now, thought, is an article by Nick O'Malley on 5 April in the *Sydney Morning Herald* that reported that the former New South Wales energy minister Matt Kean had left the group over its position on nuclear energy. On the second paragraph, the report reads:

Kean says the Coalition for Conservation's rhetoric on nuclear energy has shifted since the former president of the Nationals, Larry Anthony, whose lobbying firm SAS has represented fossil fuel companies, joined the organisation as chair, and the energy millionaire Trevor St Baker came on as a member of its advisory board.

This organisation, Coalition for Conservation, is chaired by a registered lobbyist. Is that potentially a breach of the ACNC standards?

Ms Woodward: That would not be a breach of any rules around who can be a responsible person of a charity.

Senator O'NEILL: So that, of itself, is not a breach?

Ms Woodward: Of itself, that would not be a breach. No.

Senator O'NEILL: There's another report on 5 April in the *Australian Financial Review* that confirms that Trevor St Baker has funded politicians to attend the Coalition for Conservation delegations. It also notes that he is part owner of a nuclear technology advisory company. The Coalition for Conservation delegations, based on their own descriptions, are essentially a 'fact-finding mission to influence decision-makers about the viability of nuclear activity in Australia'. There are a number of posts and public media about the attendance of members—indeed, members of this committee, along with other colleagues—as delegates, supported by Trevor St Baker, the energy millionaire who has shifted his attentions to nuclear.

Now, I look at that—you've got a number of documents in front of you now—and I go to the ACNC website. It has this guidance:

Private benefit is a significant issue for charities.

It occurs when a charity's resources are used for the benefit of those close to or related to the charity, rather than the charity's beneficiaries and for its charitable purpose.

Private benefit does not just refer to money—it could involve goods, services or anything else a charity has or provides.

An organisation cannot be a charity if it exists for private benefit.

Ms Woodward, does this description of Trevor St Baker represent a potential conflict for the Coalition for Conservation? Rather than serving the public benefit through a charitable purpose, which is what people expect from charities, their work appears to be opening up a private commercial opportunity for a major donor and patron who is close to or related to the charity.

Ms Woodward: Obviously, I can't speak about the specifics, not having been aware of that particular media article. The team could well be looking at it, but, under my secrecy provisions, I can't talk about whether we're investigating any particular charity or not. But you're right: if there is serious private benefit, rather than charitable funds being used for the charitable purpose, that would be of concern to us.

Senator O'NEILL: So commercially slanted lobbying is incompatible with the ACNC's expectations of what a charitable entity would be undertaking?

Ms Woodward: The charity will be registered for particular charitable purposes. The funds that it has have to be used for that charitable purpose. If those funds are not being used for a charitable purpose and are instead being used for private benefit or non-charitable purposes, that would be of concern.

Senator O'NEILL: In particular, can I draw your attention to this, Ms Woodward—and it seems you're going to have to take much of this on notice. Mr St Baker is a new significant donor to the Coalition for Conservation. He is the patron of the charity, he's made personal investments in nuclear technology, he's calling for an end to the ban on nuclear power in Australia, and, in a recent statement to the *Sydney Morning Herald*, Mr Matt Kean, who was a member of the Coalition for Conservation, said:

It went from an organisation focused on a diverse range of clean energy solutions to an organisation singularly focused on nuclear energy.

Senator DEAN SMITH: That's a wrong characterisation.

Senator O'NEILL: That is on the public record. I ask you to have a look very carefully, Ms Woodward, at what this particular so-called charity has been up to.

Ms Woodward: I can assure you that even though I may not have personally remembered this particular article, we do monitor the media every day. It is part of where we get our intelligence in terms of allocating our resources to compliance work. These are exactly the sort of things that the team will be looking at.

Senator O'NEILL: If I can just step out my concerns, in the time since Trevor St Baker has become a donor, the organisation has changed tack to a line of political advocacy, which is successful—it clears a blockage that currently limits the value of Mr St Baker's investments in nuclear technology. Their advocacy on this issue seems to be the charity's sole activity. As a regulator with responsibility for public trust and confidence in the Charity Register, when I put it to you in that form, does it give you concern?

Ms Woodward: The charitable purpose would probably be broader than one particular activity. It would depend what that charitable purpose is for this particular charity. So I would have to take that on notice to look at that. It's all about charitable purpose rather than any particular activity. I'm not sure which charitable purpose this organisation is registered for. If it does stray into the political advocacy space, as you mentioned from the website, that is something that would be of concern to us.

Senator O'NEILL: I can indicate that Coalition for Conservation is chaired by a registered lobbyist. It engages with politicians to advance the commercial interests of its major donor.

Senator DEAN SMITH: That is actually not correct. It's actually very incorrect.

Senator O'NEILL: Do you have any thoughts on why an organisation might choose to be a charity as opposed to a regular lobbying entity?

Senator DEAN SMITH: As someone who is very familiar with the work of the Coalition for Conservation, I can say with great authority that Senator O'Neill's characterisation—

Senator O'NEILL: Chair, I have the call.

Senator DEAN SMITH: is driven by politics and is incorrect. I just need to let officials know that if Labor senators are going to waste the committee's limited time, then we will call another spillover.

CHAIR: Senator Smith, the questions are a little touchy—

Senator DEAN SMITH: They are wrong. It's actually incorrect.

Senator Gallagher: [inaudible]

CHAIR: The question are in order and Senator O'Neill has the call. I'm keeping a close record of the time. Senator O'Neill, until this time wasting, had spent less time than the deputy chair on his first line of questions. Senator O'Neill has the call.

Senator O'NEILL: Do you have any thoughts, Ms Woodward, or anybody else from the ACNC, on why an organisation might choose to be a charity as opposed to a registered lobbying entity?

Ms Woodward: People choose to be charities for a variety of reasons. In some cases if they wish to access Commonwealth taxation charity concessions and benefits, they must register. But it is otherwise a voluntary system.

Senator O'NEILL: For example, would a charity, as opposed to a registered lobbying entity, need to declare details of its donors?

Ms Woodward: The charity would in its annual information statement declare the sources, the broad categories. The full extent of the financial information that they have to submit annually to us depends on the size of the organisation.

Senator O'NEILL: Categories but not donors?

Ms Woodward: Unless they're required under the Electoral Act provisions, they would have a general category of donations, and it wouldn't—

Senator O'NEILL: So it might not always be clear who the donors are, when it's a charity?

Senator DEAN SMITH: [inaudible]

CHAIR: Senator Smith, Senator O'Neill has the call.

Senator O'NEILL: Do charities have to register which organisations or individuals they engage with or advocate for?

Ms Woodward: No, they don't register that information.

Senator O'NEILL: Does the ACNC have resources to investigate if a charity's donors stand to receive a private commercial benefit from their tax-deductible donations to a charity?

Ms Woodward: We have resources that we put towards compliance work. Obviously we have priorities. Private benefit has always been a priority area. If we felt that there was a significant diversion of charitable funds to private benefit, that would be higher up on our risk matrix.

Senator O'NEILL: Ms Woodward, based on the public documents that I've put before you this evening, I expect that this will trigger some interest from you. I'm concerned that despite the fact that these are public documents, you didn't seem to have any awareness about them. I'm concerned about the difference in the transparency around the lobbyist register versus the charities, and I'm very concerned about Mr St Baker changing the direction of a charity to its focus on nuclear, when that is the industry in which he is invested and stands to significantly gain personally. How many of these sorts of entities do you interrogate and investigate?

Ms Woodward: As I say, we do monitor the media regularly.

Senator O'NEILL: But you've missed this.

Ms Woodward: Well, I have.

Senator O'NEILL: It's multiple. There are multiple articles. There's one more that I want to table, if I can. This is one from as far back as 2022. What's the recourse if the ACNC or the ATO were to find out that an individual was receiving a private commercial benefit from their tax-deductible donations?

Ms Woodward: If they cease to be a charity, that will affect their tax status and the tax implications of the tax office.

Mr Heferen: That's right. If they cease to be—to take action that means that they can't be a registered charity anymore. If they were registered for tax deductibility, they would lose that. For more detail I'll pass to Mr Hirschhorn.

Mr Hirschhorn: Indeed, if there's a disqualifying event, that of charitable status, that will flow through to the tax system. Also, there's the element that if you make a payment to a charity in expectation of a private benefit back, that is not a donation and so is not deductible.

Senator O'NEILL: If one were to do that, how do you think that the ordinary Aussie would characterise that?

Mr Heferen: I think that calls for a bit of speculation and opinion. To be clear, as Mr Hirschhorn says, if a donation is made that not actually a donation, because in return you're receiving some kind of a service, then it's no longer a donation and is not deductible. To the extent that we would find out about that, that deduction would be denied and assessment raised and the tax paid.

Senator O'NEILL: It would be a con. I think that would be the common parlance. Can I draw your attention to the article by Joanne Tran in *The Australian* on 1 August 2022, who raised concerns about Conservatives for Climate Change movement, that's described in this article, appears to be eroding. Four board members quit the group over an alleged lack of transparency. The former C for C director Diane Rule told the Oz that she had concerns about financial transparency at this charitable group. 'That made me think it was time to resign.' And she was very concerned about the source of funding for a trip for board members to go to Glasgow in 2021.

We have documentation here about another trip to COP28 that I've tabled. I just want to finally get your response to this last line. 'According to Rule'—Ms Rule who is quoted here—'the organisation could never provide clear answers to its board members where the funding of the trip came from.' I put it to you—I hope that I'm wrong—that the Rule response, along with other board members quitting the group over alleged lack of transparency for a trip to Glasgow in 2021, was a warm-up act for what became the C for C at the Barakah nuclear plant as they went and attended COP28 more recently, and that the person who was funding that is Mr St Baker, who has significant commercial interests in the Liberal National Party changing the policies of Australia to invest in nuclear energy. This stinks. It certainly requires some very serious consideration, in my view. Do you have a response?

Ms Woodward: I will just say that obviously this initial article is from before I was appointed. It could well be that we are looking at this charity. I personally don't know the name of every charity that we might be investigating, and in any event I wouldn't—

Senator O'NEILL: This is not a small thing, though. This is not a small infraction.

Ms Woodward: I'm not suggesting it is. If these allegations that are in the media—

Senator DEAN SMITH: It's also not a major thing, because, if you read the account in the *Australian* newspaper—

Senator O'NEILL: It's not major like nuclear is not major, right?

Senator DEAN SMITH: that Senator O'Neill is reading from, you'll see that the C4C has in fact provided a rebuttal in the article to some of those climate quotes that Senator O'Neill has selectively quoted from. This is a very lame attempt from Senator O'Neill, who is usually more accomplished at these sorts of matters—

CHAIR: Okay, Senator Smith. A question—

Senator DEAN SMITH: It's a very lame attempt to disrupt and waste the committee's time.

Senator O'NEILL: I'll ask you to withdraw that backhanded compliment.

Senator BRAGG: It's been 20 minutes of this demolition process.

Senator O'NEILL: Can I just get confirmation that Coalition for Conservation will be investigated fully by the ACNC, Ms Woodward?

Ms Woodward: I can't comment on whether we are investigating or we will—

Senator DEAN SMITH: You can't even comment on whether there's an allegation.

Senator O'NEILL: I didn't ask you to comment—

Senator BRAGG: This is so juvenile.

Senator DEAN SMITH: It is.

Senator O'NEILL: whether there is currently an investigation, but I've asked if you will take these questions seriously.

Senator BRAGG: [inaudible]

CHAIR: I don't think, Deputy Chair, you want to go there, on how much time the opposition gets in senate estimates in general—

Senator BRAGG: It's for the opposition.

CHAIR: but I am ready to share the call. I'm going to Senator Smith.

Senator DEAN SMITH: I also have ACNC and ATO matters in regard to the not-for-profit self-assessment work that is underway, but I'll leave those for a later time, perhaps not even for tonight, at the next spillover if that's required. I do want to ask some questions in regard to the HECS debt re-indexation matter. Ms Brown, are you able to answer some queries?

Ms Brown: We'll see how we go. They might be for the Taxation Office. They administer it, and the policy lies with the Department of Education.

Senator DEAN SMITH: Let me begin as I normally do. Thank you very much for your participation tonight, Commissioner, Ms Brown, Ms Woodward and others. Has any HELP or HECS debt been refunded to students by the ATO as of today?

Mr Heferen: Are you referring to the implications of the government's budget announcement?

Senator DEAN SMITH: Yes.

Mr Heferen: The legislation, as I understand, is yet to pass the parliament. Once the legislation passes the parliament, the indexation rate is changed to be the lower of the CPI or the wage cost index, I think it is. Once that occurs, the refunds will occur automatically. Until such time as that occurs, no refund will be paid under the government's announcement, because the government's announcement needs to be legislated for it to take effect.

Senator DEAN SMITH: My question is: has any HECS debt been refunded to students by the ATO as of today?

Mr Heferen: Any HECS debt whatsoever?

Senator DEAN SMITH: The re-indexation arrangements.

Mr Heferen: From the re-indexation arrangements?

Senator DEAN SMITH: Yes.

Mr Heferen: Well, the legislation hasn't passed, so no.

Senator Gallagher: He doesn't have the legal authority to do that.

Senator DEAN SMITH: So your answer is no.

Mr Heferen: Sorry?

Senator DEAN SMITH: Your answer is no, Commissioner?

Senator Gallagher: There's no legal authority to do it. We need the bill.

Senator DEAN SMITH: So it hasn't happened yet, Minister?

Senator Gallagher: So you'll support it?

Senator DEAN SMITH: So it hasn't happened yet, Minister?

Senator O'NEILL: They must be going to support it.

Senator Gallagher: Good! We can get it right through the parliament quickly.

Senator DEAN SMITH: Minister?

Senator Gallagher: When the legislation has passed and the ATO can action that, then it will occur.

Senator DEAN SMITH: And as of today, the legislation has not passed, I think, is the commissioner's evidence.

Mr Heferen: That's correct.

Senator Gallagher: That's right.

Mr Heferen: We have to administer the law in line with what the law actually says, not with what it might say.

Senator DEAN SMITH: That is correct. When do you, Commissioner, anticipate that the ATO will be in a position to adjust student HECS debts?

Mr Heferen: Once the law has passed.

Senator DEAN SMITH: Is there any indication in terms of when you expect that law to be passed?

Mr Heferen: That's a matter for the parliament, not for the humble administrator.

Senator DEAN SMITH: Thank you. Minister, when do you expect that the ATO will be able to adjust student HECS debts?

Senator Gallagher: The answer's the same: it's when the legislation passes. But we'll just get some more information. I presume someone's listening to us giving evidence now. I'm just looking for it, but I'm not sure it's with me. It will be backdated. We'll pass the legislation as soon as we can, but the date it passes is not the date from which people are able to get that, going forward. I'm just trying to recall what date it's due to kick in. I don't have my budget book with me.

Senator DEAN SMITH: The legislation has not yet been introduced?

Senator Gallagher: I'm not sure. It's certainly not in the Senate.

Senator DEAN SMITH: Agreed. That's right. What is the interrelationship between the new re-indexation arrangements and the latest indexation round?

Mr Heferen: Sorry, I don't understand the question.

Senator DEAN SMITH: My understanding is that the new indexed amount will be levied on the debt that currently exists. Or will it be levied on the debt after the revised 2023 indexation?

Senator Gallagher: Let us just come back with the—sorry, Commissioner. I'm just trying to get the latest information for you. Yes, I think we'll wait to get the information. I've just asked for it. I don't want to give you—okay. It will apply retrospectively to 1 June, last year.

Senator DEAN SMITH: My question just goes to the indexation—

Senator Gallagher: They'll be adjusted for that.

Senator DEAN SMITH: My question is: will the new indexed amount be levied on the debt currently or the debt after the revised 2023 indexation?

Mr Heferen: It is currently backdated to 1 June, as the minister said.

Senator DEAN SMITH: How does the HECS remittance work through the PAYG system?

Mr Heferen: In relation to the amount withheld?

Senator DEAN SMITH: Yes.

Mr Heferen: The withholding would be added on. If an employee is working for salary and wages, the withholding schedule would include an amount so we can incorporate the HECS payment that occurs. Once it's changed, then the refund applies, but until such time it's changed—I'm fairly sure that's the case, but Mr Allen might be able to assist.

Senator DEAN SMITH: Mr Allen, I'm happy for you to explain this in detail, just to get it on the record, just for my assistance.

Mr Allen: Yes. At the moment, we don't have a real-time manager undertaking the HECS payment through the year. It's just collected as part of the pay-as-you-go withholding. At the end of the year, when the individual puts their tax return in, there's a reconciliation in terms of the estimated HECS debt versus what they've withheld, and there's either an overpayment or an underpayment. That's all managed through the tax return.

Senator DEAN SMITH: Has that information been provided formally to government?

Mr Allen: That's a system that's been in place since 2003, and it's very well established. Again, the mechanism and the process are a matter for the Department of Education.

Senator DEAN SMITH: I am just paraphrasing: the ATO has a well-established system—my words—that's been operating since 2003. And then what is the interface or involvement of the Minister for Education?

Mr Allen: The Minister for Education sets the policy around the HELP and HECS debt, and we administer it.

Senator DEAN SMITH: So it's open to the Minister for Education to propose an alternative arrangement to the one that's been operating since 2003?

Mr Heferen: Just to be clear, it is open for the Minister for Education to propose to the parliament—

Senator Gallagher: To introduce legislation—

Mr Heferen: For the parliament to make a change.

Senator DEAN SMITH: What's the level of awareness from the ATO at the moment about whether the existing system will be used or whether an alternative or amended system will be used?

Mr Heferen: We understand that the proposal would be for the existing system to be amended to change the indexation date but not to change any of the payment mechanisms.

Senator DEAN SMITH: That is the ATO's view that's been communicated to government, or is it the ATO's expectation?

Mr Heferen: In consultation with our colleagues in the Department of Education, that's my understanding.

Senator DEAN SMITH: Is that the position that will be, or is it still open for discussion and confirmation?

Mr Heferen: Ultimately, that's a matter for the Minister for Education and the parliament, not for us.

Senator DEAN SMITH: Okay. You've been talking with the Department of Education. What's your level of awareness in terms of whether or not Minister Clare, the Treasurer, Minister Jones or Minister Leigh—what's their level of awareness in terms of the government's consideration in terms of what the arrangement should be?

Senator Gallagher: I'm not sure I follow.

Senator DEAN SMITH: Correct me if I'm wrong, Commissioner. The commissioner has said that that the ATO is working with the Department of Education on what the proposition will be in terms of how the re-indexation arrangements will be administered. We have a pre-existing arrangement that's been operating since 2003. The ATO's expectation is that that will continue to be the mechanism? And the commissioner is nodding.

Senator Gallagher: Yes, I think it's a straightforward adjustment to the indexation arrangements—

Mr Heferen: That's right.

Senator Gallagher: and it's backdating it. That's what the legislation will be. We're not dreaming up a new system. It's just that, when inflation has been as high as it has, that's had a real impact on people's HECS debts.

Senator DEAN SMITH: That sounds to me like you'll be using the pre-existing system that's been operating since 2003.

Senator Gallagher: Yes, I imagine, unless there's something else that needs addressing in it. It's simply changing the indexation rate.

Senator DEAN SMITH: Minister, if that's not the government's position, you can just provide that on notice to the committee, and we'll just—

Senator Gallagher: You'll see it. Whatever we decide will be reflected in the legislation.

Senator DEAN SMITH: When will the legislation be visible?

Senator Gallagher: I'm advised—obviously, in the second half of this year!

Senator DEAN SMITH: I'm glad you laughed! I don't feel so embarrassed, laughing.

Senator Gallagher: I'm trying to be more helpful. I can't be. I cannot be more helpful than saying it will be in the second part of this year, noting that we are about to end the first part.

Senator DEAN SMITH: Will it be introduced before the election?

Senator Gallagher: The second half of this year.

Senator DEAN SMITH: Will it be introduced before the election?

Senator Gallagher: The election's not scheduled until next year.

Senator DEAN SMITH: No, the election can be held any time between 2 August and late May—

Senator Gallagher: I know. You're getting quite exercised about that, but—

Senator DEAN SMITH: You can't—

Senator Gallagher: our intention is to have legislation in the second part of this year, and it will be retrospective, which means that students will get some significant relief on their HECS debts.

Senator DEAN SMITH: But you're not prepared to confirm that it'll be legislated before the next election?

Senator Gallagher: That's in the hands of the parliament.

Senator DEAN SMITH: It's in the hands of the Prime Minister.

Senator Gallagher: No, what legislation passes the parliament—

Senator DEAN SMITH: Election dates are in the hands of the Prime Minister.

Senator Gallagher: is in the hands of the parliament. As you know, the Senate determines, very much—it's the master of its own destiny, as we experience every day.

Senator DEAN SMITH: As we know. I want to turn to company tax and investment measures, if we might. Can you confirm the quantum of company tax receipt upgrades over the past three budgets? Is that for you, Ms Brown?

Ms Brown: No, that would be for Treasury. Mr White has that number. We've definitely got the update—

Senator DEAN SMITH: Excuse me, Ms Brown. The acoustics in these rooms are poor.

Ms Brown: We've definitely got the upgrade for the last year. Over the last three years, Mr White may have it, but company tax was up, and I've got since MYEFO. We'll see if we can find that number for you.

Mr White: We won't have over the last three years with us tonight, but it's been significant.

Senator DEAN SMITH: It's been significant? So it's left an impression on you?

Mr White: It's been large, yes.

Senator DEAN SMITH: Being significant—being large. Do you have a number at all, Mr White?

Mr White: No, not for the last three years with me.

Senator DEAN SMITH: For the last year?

Mr White: We have since MYEFO, which was—

Ms Brown: Since MYEFO, it was up \$5 billion—

Mr White: In 2024-25.

Ms Brown: and \$26.2 billion over the forwards since MYEFO.

Senator DEAN SMITH: Is the government collecting more company tax?

Ms Brown: That just reflects stronger than expected corporate profits. Company performance has been high, and that's obviously reflected in tax receipts.

Senator DEAN SMITH: Has the Treasury undertaken any recent analysis or developed policy options about reducing the company tax rate?

Ms Brown: We look at the operation of the tax system all the time. I think that we had a discussion last time. We don't speculate on what we're looking at. We look at the whole tax system all the time.

Senator DEAN SMITH: Does the Treasury have a view on whether decreasing the company tax rate would increase Australia's competitiveness?

Ms Brown: I think that the secretary was asked that question or a similar question at the estimates held immediately after the budget, and he mentioned that tax needs to be considered in the context of the fiscal outlook.

Senator DEAN SMITH: Has the Treasury undertaken any recent analysis or developed policy options in regard to accelerated depreciation measures?

Ms Brown: It's part of developing the production tax incentives. We looked at a range of measures that might address that. Accelerated depreciation may have been one of those at that time. Again, when we're given a

problem, we look at it in many ways to try to determine the best way forward for achieving the government objective.

Senator DEAN SMITH: Senator Bragg made the point, in regard to the production tax credits that operate over a 17-year period, what is the hesitation, if any, in legislating for a measure like accelerated depreciation to operate over a much longer period?

Ms Brown: Again, as Ms Bultitude was saying, it depends on the barrier you're trying to address and whether that tax intervention or tax measure would best address that barrier. Accelerated depreciation probably is more commonly used when there are high initial capital costs and you want to help with the capital costs. With the production tax incentives, it was a different barrier. It was a continuing green premium that was not reflected in price that was going to exist over the sale of the product.

Senator DEAN SMITH: What impact did the United States company tax cuts introduced under the Trump administration have on investment flows into and out of the United States compared to Australia?

Ms Brown: I would need to take that on notice.

Senator DEAN SMITH: But the Treasury would have been alert to that and would have been conscious to that development. Would the Treasury have undertaken any analysis or research to support a view or an understanding?

Ms Brown: We do look at the international literature. We look at the OECD tax statistics that might indicate flows and observations like that. I'm just not aware of that particular one.

Senator Gallagher: I think recently, also, the Inflation Reduction Act has been probably the piece of legislation over in the states.

Senator DEAN SMITH: I'm interested in company tax cuts. And now I'm interested in the accelerated depreciation initiatives of the Trump administration. Did the Treasury form a view about what effect they had on investment in the United States?

Senator Gallagher: We're more worried about what investments are happening here, as you can imagine. It's what we're responsible for. So going back and having a look at the tax arrangements of the Trump administration has not been a priority for us. I can say that pretty clearly.

Senator DEAN SMITH: But the Treasury—

Senator Gallagher: The answer from Treasury is the right one, which is that of course they are mindful of what's happening internationally with tax arrangements. They look at important publications like the OECD and other reports. But did the government seek some specific information about the question you are asking? I'm telling you the answer is no.

Senator DEAN SMITH: I'm interested to know what the Treasury's view is on both of those initiatives in regard to attracting investment in the United States and what might be the consequence of investment for Australia. Ms Brown might have some information.

Ms Brown: I have just been advised that we actually did a working paper on the US tax cut. It was a qualitative analysis. It's available on our website. It's dated from 2017. That would have been during the Trump presidency. We're happy to provide you a copy of that.

Senator DEAN SMITH: If it's on the website—

CHAIR: I'll go to Senator McKim.

Senator McKIM: Good evening folks, and good evening, Minister. I've got some questions about the program that's become known as 'Robotax'. This was a series of communications from the ATO to people alleging that they had debts, in many case minor debts, in some cases very old debts. Could you advise how many people actually paid their debts under that scheme, having received that communication from the ATO, either by paying it or through an offset to their tax refunds?

Mr Heferen: I'll ask Mr Allen to provide information, but I do just want to be clear that the label 'Robotax' is unfair, and my officers find that deeply offensive. The prefix 'robo', almost like the suffix 'gate', seems to have caught on to various things. If people want to criticise a particular activity as being unfair, then it's linked to Robodebt. Robotax, as the name implies, suggests some link or some similar characteristic. There was no similar characteristic. As I said in my opening statement, we have made mistakes, and some of that communication was unclear to people. Whilst the letters were clear that people didn't have to do anything, it was accompanied with a note on the side of the letter where people might pay. So it did cause confusion. Because of the concern that was raised in the community we suspended that activity.

As I said in my opening statement, the government is now proposing to the parliament to provide a discretion for us to be able to still proceed and provide refunds to people whose debts were placed on hold prior to 2017 and were likely to be subject to the confusing information that we sent out. I've seen the commentary around that, and I think that it's unfair. It tries to label something which was actually a genuine attempt to try to recover debt. At the time, people thought that they were doing the right thing. There was some miscommunication. We've reverted. We've kept the situation as it was. We've put in place the status quo. Hopefully the legislation will pass to make sure that the discretion to keep those debts on hold, until such time as that legislation is considered by the parliament, exercise the discretion to keep it on hold.

I hope that it didn't sound too petulant, but sometimes we get these things, and I think it's unfair for the staff involved to be associated with the Robodebt process that occurred. I'll pass to Mr Allen.

Mr Allen: On the back of the awareness letters, which were just focused on the pre-2017 population, we've had about 7,000 taxpayers who've paid. 3,098 taxpayers have paid the full amount, and another 3,985 have partially paid that debt on hold.

Senator McKIM: What were the dollar amounts of debts that have been paid?

Mr Allen: The overall dollar amount is around \$1 million.

Senator McKIM: Spread between approximately 7,000 taxpayers?

Mr Allen: Yes, so they're fairly low-value debts.

Senator McKIM: What was the smallest debt that was sought?

Mr Allen: I haven't got that.

Senator McKIM: Can you take that on notice?

Mr Allen: Yes.

Senator McKIM: And what was the oldest debt that you sought to recover?

Mr Allen: Again, I haven't got that.

Senator McKIM: Could you take that on notice, please?

Mr Allen: Yes.

Senator McKIM: I'm aware that the budgets included a commitment to legislate. Has the ATO seen draft legislation from the department? Where are we in the process? Or is that a question for the department?

Ms Brown: It's a question for the department. Ms Berger-Thomson might be able to give you an update.

Ms Berger-Thomson: We're in the process of working with government to draft legislation related to this measure.

Senator McKIM: Have the drafting instructions gone in?

Ms Berger-Thomson: Not as far as I'm aware.

Senator McKIM: Okay. Has the policy, the legislation we seek to enact, been settled?

Ms Berger-Thomson: It has. You've seen that in the budget documents.

Senator McKIM: I've seen that at a very high level. I've got some questions around that, if the policy's been settled. Will it require debts that have already been paid under this scheme to be reimbursed to taxpayers? Or will it provide discretion to the ATO to reimburse debts already paid?

Ms Berger-Thomson: My understanding is that is not going to be possible.

Senator McKIM: What, technically possible? It's not technically possible to refund somebody for something they've paid the ATO? That'd be news to a lot of people!

Ms Brown: They had a debt, and they've repaid the debt.

Senator McKIM: We've heard an apology given by the ATO. Mistakes were made. That's been a concession by the ATO. People who paid their debt, having been subjected to the kind of treatment that warrants an apology from the ATO, have no recourse, and you're suggesting you can't address that by legislation—is that your evidence?

Mr Heferen: Could I clarify: the reason for the apology was the confusing communication—

Senator McKIM: I understand that. But, having received a confusing communication, as you've just described it, lots of people paid the debt.

Mr Heferen: And there is a debt. Sorry, Senator—

Senator McKIM: Now we're being told that they can't get a refund for that debt and that can't be addressed by legislation. I find that extraordinary.

CHAIR: I'll let Mr Heferen give an answer.

Mr Heferen: The Taxation Office's task is to collect revenue, including outstanding debt. If someone has a tax debt, prima facie, that should be paid. In circumstances where it's uneconomic to pursue or the person is facing economic hardship, or for some other reason, the debt can be placed on hold until such time that it does become economic to pursue. The circumstance we're talking about here is a situation where there was communication that was confusing. On one hand, the letter was clear to say, 'You have a debt, but you don't have to pay it,' but it was accompanied by the circumstance in which it would be paid. Given that confusion, we've accepted that there was a problem and apologised. But, of course, where people have paid, the debt is still there. The—

Senator McKIM: Not for some people. We've just heard evidence that over 3,000 people paid their debts in full. That debt doesn't exist anymore. They paid it because they received a confusing communication from the ATO.

Senator Gallagher: The point we're trying to raise is the debt was incurred. The debt was owed, and they—

Senator McKIM: And they paid it because they received a confusing communication.

Senator Gallagher: Are you arguing that the tax office should refund for a debt that was owed to the tax office?

Senator McKIM: I am arguing that if you're going to bring in legislation that is going to provide discretion to the ATO not to pursue some of these debts—

Senator Gallagher: Outstanding debts.

Senator McKIM: If you're going to bring in legislation that will provide discretion to the ATO not to pursue some of these debts, it would be manifestly unfair for you not to apply that same discretion, with the same criteria—

Senator Gallagher: The discretion doesn't—

Senator McKIM: to consideration of refunding the debts—

Senator Gallagher: I can't believe that you are in here arguing for refunds for debt that should be paid—

Senator McKIM: Just let me finish, Minister—to people who paid the debt after having received a confusing communication from the ATO, for which the ATO have apologised. Explain the fairness in that.

Senator Gallagher: The debts were incurred.

Senator McKIM: Explain the fairness in that, Minister. You're going to provide discretion for the ATO not to pursue some of these debts, but you're not going to provide discretion for the ATO to refund the debts that were paid by people who received a confusing communication for which the ATO has apologised. You're effectively penalising people who were intimidated by a confusing piece of communication into paying a debt. That's what you're doing. Isn't it?

Senator Gallagher: There are a whole range of people who pay tax debts.

Senator McKIM: This is extraordinary.

Senator Gallagher: I can't believe you're in here arguing that people who have had a debt that they have repaid—putting aside the communication—

Senator McKIM: Putting aside the whole fairness argument—that's what you're doing.

Senator Gallagher: There is a debt that's owed to the Commonwealth. You're arguing that by giving a discretionary power to the tax office to determine whether they put something on hold or they waive—

Senator McKIM: That's what you're doing, isn't it?

Senator Gallagher: Or they waive it or make whatever decision they make. You're saying that everyone else should have a refund of a debt?

Senator McKIM: No, Minister, that is manifestly not what I'm arguing.

Senator Gallagher: That's exactly what you've been saying.

Senator McKIM: If you let me ask the questions here—

Senator Gallagher: Well, stop shouting.

Senator McKIM: If you let me ask the questions—I'm upset for a whole bunch of people who are being shafted by the government.

Senator Gallagher: They haven't been shafted.

Senator McKIM: They are being shafted, and I'll explain to you why. You've just given evidence that you're going to bring in legislation that will give the ATO discretion not to pursue certain categories of debt. Is that correct?

Ms Brown: It's a discretion not to offset against refunds. The debt can still be pursued should it be economical to do so.

Senator McKIM: Alright, discretion not to offset against refunds.

Senator Gallagher: The communication was about withholding refunds.

Senator McKIM: I understand that, but it's still a debt, right?

Senator Gallagher: Yes.

Senator McKIM: So you're going to bring in legislation that is going to give the ATO discretion effectively not to pursue a debt, or to use Ms Brown's technical term, not to offset that debt against refunds. Correct or incorrect?

Senator Gallagher: Yes, we're giving the ATO discretion around that. That is the intention.

Senator McKIM: Will the legislation contain what criteria the ATO should use to determine whether to exercise that discretion?

Ms Brown: Ms Berger-Thomson can go to that point.

Ms Berger-Thomson: The intention of the measure is that there's a limit on the age of the debts, the date at which that debt was put on hold by the ATO. It's only debts that were put on hold prior to 1 January, 2017.

Senator McKIM: So that will be the only criterion?

Ms Berger-Thomson: No. It will also only apply to certain categories of debts, so debts that were raised by individuals, small businesses and not-for-profit entities.

Senator McKIM: Will the discretion—

Ms Berger-Thomson: Will be a discretion.

Senator McKIM: So the ATO will be able to not pursue those debts, effectively?

Ms Berger-Thomson: Not to offset against refunds, that's correct.

Senator McKIM: They'll have discretion.

Ms Berger-Thomson: Provided that those debts were put on hold.

Senator McKIM: What criteria will the ATO use in order to determine whether that discretion should be exercised?

Ms Brown: The ATO had been exercising a discretion. The ANAO did an audit and found that that discretion wasn't found in legislation. The legislation is to return to the ATO the discretion that they had previously. It is a discretion for the ATO to determine how to administer that provision.

Senator McKIM: We've just heard evidence that thousands of people have already had those debts, alleged debts, offset against their tax returns—correct?

Senator Gallagher: They're not alleged debts. They're debts. Don't try—

Senator McKIM: They're debts according to the ATO, Minister. The point here is the ATO only requires people to keep tax records for five years. These debts go back well over five years in some cases. How are people supposed to assess whether these debts are reasonable or not? Is the ATO a perfect organisation that never makes a mistake? I doubt that very much. The core of my question is this: how is it fair that this legislation will provide discretion to the ATO not to offset—let's call them debts—against people's returns, for people that haven't yet had that happen, but people who've accepted the debt after receiving a confusing communication from the ATO are not going to be able to have the same discretion applied in order to repay that debt. They're being penalised.

Senator Gallagher: They're not being penalised.

Senator McKIM: They are.

Senator Gallagher: Individuals make choices about the payment or non-payment of debts.

Senator McKIM: You're penalising them. They are being disadvantaged. Let's use that word.

Senator Gallagher: They have chosen to pay a debt.

Senator McKIM: They are being disadvantaged, having received a confusing communication.

Senator Gallagher: We are providing in legislation a power to the ATO to have discretion around not withholding that from their tax returns, which was the letter that went out. It was information to people about what will happen. It was confusing; the ATO has accepted that. But for those that came forward and paid a debt that was owed to the ATO, those debts have been extinguished. That's the result.

Senator McKIM: Minister, is it your evidence that it is technically not possible for the ATO to refund those debts, or not possible for legislation to be drafted that would provide for the ATO to have that discretion?

Senator Gallagher: I think where debts have been repaid to the tax office it would be extremely unusual for legislation to allow a situation where those debts have been repaid, or that precedent, frankly. Debts exist across the tax system and they are important. It's a fundamentally important part of our tax system that if you have a tax debt, you pay that back. Imagine all the people who don't have a debt? What are we going to refund to them?

CHAIR: I will go to the deputy chair.

Senator BRAGG: Who's here from the Board of Taxation?

Ms Brown: There's no-one present from the Board of Taxation.

Senator BRAGG: No-one is here from the Board of Taxation?

Ms Brown: They weren't called.

Senator BRAGG: Who's running the Board of Taxation crypto review?

Ms Brown: The Board of Taxation is an advisory board to the committee. It is supported by a secretariat that is run out of the department, but the board members are individuals appointed by the Treasurer.

Senator BRAGG: Who's the head of the secretariat?

Ms Brown: The head of the secretariat is an SES in Treasury. Paul Korganow is his name.

Senator BRAGG: Is he here?

Ms Brown: He's not here, sorry.

Senator BRAGG: Is there anyone here who is working on that?

Ms Brown: He is the only SES in the Board of Taxation.

Senator BRAGG: So no one can answer any questions about that? Can I ask you about it?

Ms Brown: I'm happy to help.

Senator Gallagher: Maybe call them next time.

Senator BRAGG: I just thought that Revenue Group would be able to answer questions about tax issues.

Senator Gallagher: Let's give it a go.

Senator BRAGG: You are doing a Board of Taxation review into crypto taxation?

Ms Brown: The Board of Taxation review has been completed and provided to government.

Senator BRAGG: It's finished?

Ms Brown: It's finished.

Senator BRAGG: Wow! That's good. What's happening with it? Where is it? Who's got it?

Ms Brown: It's currently being considered within government.

Senator BRAGG: Which minister's got it?

Ms Brown: The Board of Taxation is an advisory body to the Treasurer, so it's with the Treasurer.

Senator BRAGG: Not the Assistant Treasurer? He's one of my favourite ministers.

Senator Gallagher: We know you're a bit fascinated with him.

Senator BRAGG: I always like to know what he's up to! It's good to check in on friends.

Ms Brown: With the Assistant Treasurer? I'd have to take that on notice and check.

Senator BRAGG: When was it received?

Ms Brown: I would have to take that on notice. It was earlier this year. I'm wondering whether Ms Bultitude might know the date it was finished.

Senator BRAGG: The reason I'm asking about this is because there was a commitment that there would be a review of all the taxation measures in the crypto world. That would have been given to government back in 2023, then that was extended to February 2024. Was it given to government in February 2024?

Ms Bultitude: Yes, it was.

Senator BRAGG: How long have they been doing the work for? Almost two years?

Ms Brown: It was a very complicated bit of work. It was probably much larger than was initially scoped.

Senator BRAGG: I know you say that, but last time you were here you told me that you couldn't do a crypto bill at all. I think you may be over-complicating some of these things.

Ms Brown: It is a comprehensive report. I'm sure the members would share my view that it was a complicated bit of work.

Senator BRAGG: So it took two years to review the crypto transactions and tax issues associated?

Ms Brown: There was extensive stakeholder consultation. The Board of Taxation wanted to make sure it did understand all of the stakeholders' interest. So there was a period of extensive stakeholder consultation. There was a change in membership over that period as well, which probably added a bit of time because the members working on it changed over the course of the report.

Senator BRAGG: How big is the report?

Ms Brown: I have it. It's a substantial report.

Senator BRAGG: Do you think there will be a prospect of legislating tax certainty for crypto in this parliament?

Ms Brown: That's a matter for government.

Senator BRAGG: When are you expecting there to be a response to the report?

Ms Brown: That, again, is a matter for government to decide.

Senator BRAGG: You obviously engage with industry. You know there's a lot of uncertainty about taxation. The government decided to cherry-pick one particular part around the tax treatment of bitcoin in El Salvador, which I thought was a very strange judgement at the time, to cherry-pick that out. I think, at the time, you argued there was going to be the potential for revenue loss, Minister. You may not remember that. I just wonder whether or not there's any chance that we could get some broader tax certainty for the digital assets world in this parliament.

Ms Brown: I think there was a concern about us providing that broader tax certainty. We looked at various ways that could be achieved, and that's now being considered by government.

Senator BRAGG: But you can't give any certainty—are you expecting to deal with it in this parliament?

Senator Gallagher: I'll have to take that on notice. I haven't seen the report, so I really can't add anything further.

Senator BRAGG: Okay. Just so I get this right: the government received a report in February this year on crypto taxation—not about how to regulate crypto, just on the taxation point. It's taken six months so far to read the report. We're not sure whether Mr Jones has the report. We think he might.

Ms Brown: He might—

Senator Gallagher: We'll be able to answer that for you. We know it's within the Treasury team. It's been provided to government. There have been a few other things going on, including a budget, between February and May—

Senator BRAGG: I understand that, and I follow these issues closely. As you know, there have been a lot of strange priorities in the markets space, particularly coming out of the Markets Group, as we discussed last hearing. We had the ASX ownership changes and a few other things, which must've been order of the day No. 422, not issue No. 1 or No. 2. I'm just wondering why there appears to be zero energy behind this whole crypto—

Senator Gallagher: I don't accept that.

Ms Brown: No.

Senator BRAGG: Do you think six or seven months is enough time to read a report on one narrow issue and respond?

Ms Bultitude: It was handed to government on 23 February, so I believe that's four months.

Ms Brown: It's just over four months—four months and two days.

Senator BRAGG: Can anyone find out and tell me which minister has the report, at least?

Senator Gallagher: It's been handed to the Treasurer, as far as I—

Ms Brown: The Treasurer may have given it to the Assistant Treasurer. That's one other question.

Senator BRAGG: We just don't know whether Mr Jones—he's the minister for this issue.

Ms Brown: The department is looking at the report and providing further advice to government.

Senator BRAGG: I've got to say: if I was looking to invest in Australia, in a digital assets business, or I was a consumer looking for tax certainty—and there are a lot of people that are worried about this—this would give me no confidence that there's any plan to deal with these issues in this parliament.

Senator Gallagher: It's no surprise that you'd like to paint it that way—

Senator BRAGG: It's not painting it. I'm just [inaudible] about the fact you don't even know which minister has the report.

Senator Gallagher: We do!

Senator BRAGG: Who?

Senator Gallagher: We've answered that. What we're coming back on is whether Minister Jones has the report as well, which was a subset of your question, so we have answered that. We have been working with the industry on this. We're not in the practice of introducing half-baked bills like you do from time to time, with all due respect.

Senator BRAGG: At least I've got a bill. You haven't even got a bill.

Senator Gallagher: Is it 'at least we've got a bill'? At least we've got a bill that nobody likes or nobody thinks does the job!

Senator BRAGG: It's a bill. You haven't got a bill, and you've been sitting on your report for six or seven months.

Senator Gallagher: Great! Anyone can chuck a bill in. It's a bit harder to actually make sure the bill does what it needs to do.

Senator BRAGG: Anyway, it wouldn't take me seven months to read a report.

CHAIR: There's two minutes left in this 10-minute block.

Senator Gallagher: No. You keep saying seven months. The evidence is four months, and the evidence is that the Treasury will be briefing and providing advice on the report that has been provided. The government will take further decisions at that point. You're a big exaggerator, Senator Bragg.

Senator BRAGG: We'll wait with bated breath. I want to ask about another matter, now that we've exhausted that avenue—to no avail, unfortunately.

Senator Gallagher: It was such a treat!

Senator BRAGG: Well, I'm saddened—

CHAIR: There's now one minute left in this 10-minute block.

Senator Gallagher: The exaggeration is out of this world: it's four months, five months, six months, seven months. It'll be a year by the time the hearing ends!

Senator BRAGG: I just wish you would prioritise things that are important to people, not things that are important to your favourite vested interests.

Senator Gallagher: We'll take that as a comment, Senator Bragg—unsurprising again.

Senator BRAGG: It's an important comment. Let's move on. Can I ask about build-to-rent tax issues?

Ms Woodward: You may.

Senator BRAGG: You want to cut me off, though, Chair.

Senator Gallagher: We all do!

Senator BRAGG: I'll come back.

CHAIR: Senator O'Neill.

Senator O'NEILL: I've got two lines of questioning, and I think I'm going to have a pretty short time, so if I can ask for pretty quick responses to questions, that would be helpful. I know that, Commissioner, you were not in the role during the period that I'm going to ask about. This all goes to QON SQ24-000025 AET022. For anybody who wants to follow along, that's absolutely available to you to see online. I also have a hard copy here, if it's going to assist you.

Senator Gallagher: That might be good. It requires a folder, does it? That's ominous!

Senator O'NEILL: That's the response. Can I clarify a few questions. The QON response, on binder page 9, included a reference to the Tax Practitioners Board's responsibilities under the Public Governance, Performance

and Accountability Act, the PGPA Act. Is it correct that the TPB has obligations under the PGPA Act, Mr de Cure?

Mr de Cure: Yes, we are subject to the requirements of the PGPA Act.

Senator O'NEILL: Is that your understanding too, Mr Heferen?

Mr Heferen: The PGPA Act makes it clear that I'm the accountable authority for the TPB. Part of the role of the accountable authority is to make sure of issues under the finance law, issues to do with mismanagement, issues to do with staffing. The chief executive instructions are put out to all my staff, including those staff that I've got working to support the TPB.

Senator O'NEILL: There's a fair bit in there, but can I go particularly to what's in this response here. Point 10, which is at page 9 of the response, says that under the PGPA Act the TPB has 'the duty to keep the relevant minister and the finance minister informed of the activities of the entity and any significant issues or decisions'.

Mr Heferen: I think that's a responsibility that rests with the commissioner. That, I think, is under section 19—

Senator O'NEILL: It's sections 15 to 19 of the PGPA Act.

Mr Heferen: My recollection is that sections 15 to 19 of the PGPA Act are ones that I can't delegate to anyone else, so that responsibility rests with me.

Senator O'NEILL: At point 11 of the same section, it says:

As accountable authority of the Australian Taxation Office listed entity, the Commissioner of Taxation is required to fulfil these functions in respect of the TPB as well as in respect of the ATO generally.

Mr Heferen: That's correct.

Senator O'NEILL: That accords with your understanding?

Mr Heferen: That's correct.

Senator O'NEILL: The investigation of the Collins matter and the PwC breach of confidentiality seems intuitively to me to be a significant issue. Does the decision taken by the TPB to access ATO systems to further their investigations make it seem to you like it's also a significant issue?

Mr Heferen: Certainly.

Senator O'NEILL: What constitutes a significant issue in the context of the TPB? Was this a significant issue?

Mr Heferen: Well, it's hard to go back in time to determine what was in people's minds. I would have thought that would have been a significant issue, but, in saying that, hindsight is a wonderful thing. I don't want to give any implication that Commissioner Jordan was somehow—he probably turned his mind to it, got advice and then made judgements accordingly.

Senator O'NEILL: I think the threshold was generally met, and the responsibility in section 10 is to keep the relevant minister and finance minister informed of activities.

Mr Heferen: Sorry; that's section 16.

Senator O'NEILL: No, that's section 10. It's sections 15-19, and it says at tab 3, if you go to it, in the binder, that in the PGPA Act is the duty to keep the relevant minister and finance minister informed.

Mr Heferen: Oh—paragraph 10. I beg your pardon.

Senator O'NEILL: The relevant minister would have been, at the time, ministers Sukkar or Robert in the Treasury portfolio, ministers Cormann or Birmingham in the Finance portfolio or indeed, secretly, the former prime minister Scott Morrison. Were any of them informed of these significant matters as per the commissioner's responsibility under the PGPA Act?

Mr Heferen: I'd have to take that on notice.

Senator O'NEILL: If not, why not? If they were informed—perhaps Mr Hirschhorn might be able to help us with this—what was the extent of the minister's respective knowledge of these matters with regard to Mr Collins's and PwC's breach?

Mr Heferen: As for the process of who was informed, it's probably easier to take that on notice to make sure that we can go through the records completely and ensure that the Senate committee has the precise information.

Senator O'NEILL: Okay. But, to be clear, we have considered the matter significant. It is a responsibility to be in contact with the minister. In this QON there seems to be quite an extensive set of references to former minister Michael Sukkar both in name and throughout the abbreviations in the document—'MHAT', which stands

for 'Minister for Housing and Assistant Treasurer', or his office, which is 'MHATO' in these documents. I take you to page binder page 16, which is tab 5 in that shortened version, there's a fair bit of redaction, so I'm going to have to just read this. "Someone" mentioned that the commissioner agreed to this at the meeting with MHATO's chief of staff in December 2021.'

Mr Heferen: Sorry; what did they agree to?

Senator O'NEILL: It was hiring and firing rights for the position of the head of the TPB.

Mr Heferen: In reading the responses to the questions on notice, that expression 'hire and fire' is thrown around like, to be frank, a pretty loose term of art. When we're talking about a senior public servant—a band 2 SES officer—there's no-one who has a right to hire and fire. A hiring decision has to be made with the Public Service Commission through a proper merit process, application selections and so forth. Certainly, when it comes to firing, the concept of firing a senior public servant—and not in the world of talking about allegations or any proven breach of the Code of Conduct or any kind of misbehaviour or poor performance—it just doesn't operate. Also, to dismiss a senior executive public servant of the Australian Public Service does require certification of the Public Service Commissioner for that to occur. So I think that, in these documents as I've looked over them, this expression 'hire and fire' has been somewhat taken out of a loose description of where the delegation would be to have the CEO of the TPB, which at the moment is the tax officer, provided to the TPB to assist them in their operations.

Senator O'NEILL: I understand there's quite a technical dimension to the task that you're talking about if you wanted to undertake it. The point is the minister was involved. The minister's office was involved. Minister Sukkar and his office, according to these documents, were in a conversation back and forth, and that is evidenced in these documents. Are you aware of what direct discussions minister Sukkar, his chief of staff or senior people in his office had with your predecessor about the issue of the loose term 'hire and fire' with regard to Mr Michael O'Neill at the TPB?

Mr Heferen: To be clear about one thing—we're also talking about Mr O'Neill, who is here—if the commissioner or the chair of the TPB, particularly the commissioner, wanted Mr O'Neill to be back in the ATO and not be the CEO of the TPB, that could have happened overnight. I think one of the things that is often overlooked in these discussions is that all of the staff assisting the TPB—the chair, Mr de Cure, and the board—are the ATO officers. At any point in time, they can come back into the ATO. So I think the conversation that's been somewhat conflated is—my understanding of the James review, which was done to try to have greater independence for the TPB and advocated that the role for the TPB itself, probably through the chair, could actually have the role in appointing a CEO.

Senator O'NEILL: Much of the James review has not been implemented, but there was one matter that was particularly of interest to Minister Sukkar. I ask the secretariat to assist with distributing this.

Mr Heferen: Mr Sukkar may well have been interested in that. I've said I'd have to take on notice the precise record we have of the previous commissioner with Mr Sukkar or Mr Sukkar's office. But that was never actioned. Mr O'Neill stayed in the role. Now, the question about—

Senator O'NEILL: Indeed he did stay in the role, but these documents, according to the materials that have been provided to us fulsomely, indicate considerable backchat, with internal emails stating things such as: 'I just had a chat with the Minister for Housing and Assistant Treasurer's office. He was a bit annoyed that not much had been done to progress what the minister wants in terms of the CEO so would like an update post on Friday on how our chat with Treasury goes.' Another department email states: 'The process of addressing these issues could take three to six months in length. While she understands this, the minister would still like to announce this is happening this month. Her question is whether the ATO is comfortable with the minister to announce its proposal this month without having worked through the issues.' The same page states—

CHAIR: I've got to share the call.

Senator O'NEILL: Sorry; last question. 'The question is whether we are comfortable for the minister to make the announcement having obtained advice on this aspect.' This set of documents that you've provided us with is replete with the minister and his office pushing and pushing and pushing to announce the dismissal of Mr O'Neill at a pace that many public servants said was completely inappropriate. Are you aware of Minister Sukkar's relationship with PwC?

Mr Heferen: No, I'm not.

Senator O'NEILL: His previous employment with PwC, his close relations with Mr Sayers and other leaders?

CHAIR: I need to share the call, so, Mr Heferen, you'll need to complete your answer.

Mr Heferen: No, I'm not aware explicitly, but I should make the point that Mr O'Neill remained in the job. He has the confidence of the board, he had the confidence of the previous commissioner in that job and he has my confidence in the role.

Senator O'NEILL: I'm not concerned for Mr O'Neill now. What I'm here investigating is Mr Sukkar's role in that saga that is well documented in these documents.

CHAIR: You'll have to put some questions on notice.

Mr Heferen: As you're probably no doubt aware, I'm not in a position to comment on what a previous minister may or may not have thought about a particular issue.

Senator O'NEILL: Could I ask you look at the documents [inaudible] response, Mr Heferen?

CHAIR: I need to share the call. Senator Smith.

Senator DEAN SMITH: I'd like to turn now to the matter of the new reporting requirements for tax-exempt, non-charitable not-for-profits. This is a matter that the ATO and the ACNC have given me an opportunity to speak privately with you about, so I do appreciate that. I was wondering, Commissioner, whether or not Assistant Commissioner Moltisanti was with us this evening.

Mr Heferen: I don't think she is. It may be that Mr Hirschhorn is able to help.

Mr Hirschhorn: I'll make my best efforts to respond.

Senator DEAN SMITH: Excellent. I did have the opportunity in the private briefing to speak with Assistant Commissioner Moltisanti, and thank you very much for that. I'd like to focus on what possible remedy or what answers and responses have been given to not-for-profits that are now starting to raise concerns around the new reporting requirements. To put this in context: we're not just talking about one or two; we're talking about tens of thousands. In fact, in the conversation that I was able to have with the ATO some weeks ago, I think the estimate was 155,000 impacted not-for-profit organisations. I want to come to the distress or the burden that it's putting on the ACNC, because, of course, there is a mechanism for not-for-profits to go seek ACNC registration as a way of avoiding the self-assessment requirement. I'm really keen to understand what answer can be given to those not-for-profit organisations that may experience a delay in completing the new ATO requirements or that may not be able to complete the ATO requirements.

Just to demonstrate the level of interest, I've had representations from the member for Mallee, Anne Webster, who is making representations on behalf of Lions clubs in her electorate; from Rowan Ramsey, the member for Grey, who is making representations on behalf of sporting groups; and from Mr Aaron Violi, the member for Casey, who is making representations on behalf of Landcare, and I'm sure that other members of the parliament have had similar representations from community organisations. So, in the limited time available, I'm keen to understand the remedy or the advice that's being given to not-for-profit organisations?

Mr Hirschhorn: I will not give the level of detail that Assistant Commissioner Moltisanti could give, but my first piece of advice would be not to panic—to be calm and to approach this calmly. The second piece of advice I would give is to go to our website and read the materials, because there are some very good guidance materials on our website. The third piece of advice that I would give is that, if a charity is still worried about meeting its obligations, you should not be a stranger. You should contact the tax office and talk through the situation, and we will, of course be understanding to those who honestly engage.

Senator DEAN SMITH: Not to panic, approach the Australian Taxation Office—

Mr Hirschhorn: Look at the guidance which is on the website and the third thing is, if you're still worried about the obligations, make sure that you're in contact with the tax office.

Senator DEAN SMITH: Let's be clear about this. We're dealing with volunteers, and we're dealing with people who have held positions for probably a very long time in their organisation. These organisations are not well prepared in terms of administrative arrangements et cetera. We're dealing with people who have held positions for a long time or might not even hold the positions anymore, which is creating a bit of a problem. Is there a telephone number they can ring, and will it be answered by someone in the Australian tax office?

Mr Hirschhorn: I do not have the phone number with me—

Senator DEAN SMITH: The number is less important to me than whether or not it will be answered by a real person.

Mr Hirschhorn: The phone calls will be answered by a real person. People should contact us. Of course we are very understanding and very supportive of the charity sector. We do not want people who are doing good

work as volunteers to panic. We would like people to take this as a new obligation—it's an important obligation—but not to panic. Of course, as with all measures, the ATO understands that we need to be understanding when a new measure comes in, and our primary focus is education and assistance.

Senator DEAN SMITH: When they go to the website, does it say, 'Do not panic'? I'm concerned that someone has to read through all the—I don't want to be unkind—ATO talk and then concludes, 'I don't have to panic.' It would be much easier if it said, 'Don't panic.'

Mr Hirschhorn: I'm not sure if 'do not panic' hits the ATO style guide! Senator, my very helpful officers have told me that the phone number for not-for-profit advice is 1300130248. It is staffed from 8 am to 6 pm, Monday to Friday, eastern standard time—

Senator Gallagher: That's for everyone watching live right now.

Mr Hirschhorn: If only Senate estimates hearings were also.

Senator DEAN SMITH: In the social media age, you will be surprised!

Mr Hirschhorn: I just reassure all charities which contact members of parliament of those three rules: do not panic, go to our guidance and, if you're still worried, please contact us on the not-for-profit advice line. And I suppose the fourth point is that our focus at the start of every regime—but particularly a regime that affects the charity sector—is around education and support, not around enforcement.

Senator DEAN SMITH: How long can the not-for-profit charity sector expect leniency from the Australian Taxation Office?

Mr Hirschhorn: I will make the comment: for a reasonable time. The first introduction is this year. The obligations start from 1 July, and of course we will see how things go. We will see how the sector copes. We will see what education, advice and support we need to give.

CHAIR: Last question.

Senator DEAN SMITH: Okay.

Mr Hirschhorn: Can I just make one comment. The tax office, as the commissioner pointed out at the start, is in the business of collecting tax. It is not in the business of collecting penalties.

Senator DEAN SMITH: Great. Thank you very much. This is my last question. I turn to the ACNC. A particular recourse is for people to seek charity registration, and in our conversation just last week we talked about the significant increase in the number of organisations seeking charity registration. There was some additional information that you provided to me, I think, just yesterday. I think there are 1,115 organisations seeking charity registration. Under your heading 'Factors influencing application rates', you state, 'The self-assessing income-tax-exempt letter is sent by ATO to over 155,000 not-for-profits, driving many to consider need to register as a charity to continue their eligibility for income-tax-exempt status.' Ms Woodward, how is the ACNC responding to that, how is the ACNC resourcing its response to that increase in demand, and what advice can you give to organisations that might be waiting for their charity registration?

Ms Woodward: We are working very closely with the ATO, particularly on the communication piece. As you say, if you are a registered charity, you don't have to do that reporting, but, correspondingly, people are now realising that they are eligible to be a charity and therefore are applying. The numbers in May were significant, as you said. There were 1,115 applications in May this year compared to 651 in May last year.

Senator DEAN SMITH: That is a 71 per cent increase.

CHAIR: I have to share the call.

Ms Woodward: Yes, and we have planned for this. We've known this was coming. We've employed more staff. They're now trained. We recently deployed a new registration form which we hope will bring efficiencies. We've also streamlined other processes. We're working very closely with peak bodies. You mentioned Landcare. We've been working very closely with the peak body for Landcare to try to get them to group their applications and make a bulk application. We will still have to consider every single one of them individually, but obviously, if they all have the same documents, that makes it a lot more streamlined. We have had support from the ATO in terms of extra resourcing and extra staff to help us meet that demand. We have managed to bring the cases in hand—if you like, the backlog—back to under three months.

CHAIR: Thank you, Ms Woodward. We have a hard marker of 9 pm, and I have Senator Rennick and Senator Roberts. Senator Rennick.

Senator RENNICK: Hi, guys. How are you going? I have a question for the tax office. In the last questions on notice, I got a reply. I asked whether or not you track foreign owners and their rental income; whether or not

you ask rental agents to collect information on whether or not these people are foreigners; and whether or not, when rental agents make payments to their clients offshore, withholding tax is being withheld. You said you didn't do that, and I'm just curious: how do you track leakage from foreign owned rental properties in terms of missing out on tax?

Mr Heferen: I might ask Deputy Commissioner Thompson, who has leapt to the table, to assist.

Mr Thompson: There are a range of ways that we would track that, as we would track any rental income, through the range of data-matching and normal techniques we use. In the context of the specific feature of it being an offshore owner, we would utilise information around capital gains, which is helpful.

Senator RENNICK: But capital gains is after the event. They could own it for 20 years.

Mr Thompson: Yes, so we would be using our normal data-matching techniques and information that we have around—

Senator RENNICK: So the foreigners—I think I've asked this before, but I'll ask again. Do foreigners have to provide a tax file number when they buy a property here in Australia?

Mr Thompson: There'd be a range of information that we would have available on ownership of properties, including rates and land tax. We get all of that information.

Senator RENNICK: Wouldn't it just be easier to ask the rental agent to collect the tax file number or something if they're foreign owned so that we can pin it rather than data match? Is this data matching 100 per cent effective?

Mr Thompson: As I think I've put to the committee before, we're very confident in our—we get the data feeds from the state and territory land title offices. We match that with Home Affairs data. We match that with Australian Electoral Commission data. It's largely an automated process. There are some records that we—

Senator RENNICK: Fair enough—if you think so. I've asked previously about shifting profits offshore. Last time it was Pfizer; they made an operating profit ratio of seven per cent over the \$1.4 billion, I think. Since that last set of estimates, we now have found out that Facebook, who has \$1.34 billion in revenue, only declared a profit of \$47 million here in Australia. So their operating profit ratio was five per cent when their worldwide operating profit was 40 per cent. In the thin cap provisions, you have a worldwide gearing ratio whereby you don't allow an Australian subsidiary of a foreign multinational to load up with too much debt, which is a very good idea. Do you think you should do the same with operating profit ratio? For example, if Facebook had a worldwide profit ratio of 40 per cent—that is, they're only paying 60 cents on the dollar in costs—but here in Australia they're loading up with 95 cents on the dollar, could we look at having an operating profit ratio to prevent profits being shifted offshore?

Mr Hirschhorn: I might talk about it from an administration perspective, even though you have cast the question as a policy question. Under the international framework at the moment, Australia gets to tax the activities which occur in Australia. We don't get to tax the parts of the value chain which are offshore. So, for a multinational digital company with a lot of research and development and a lot of the work being done offshore, we don't get to tax the profit attributable to that. We get to tax the profit attributable to what people do in Australia. That is supported by the multinational anti-avoidance law, which was brought in to stop people artificially avoiding having a permanent establishment in Australia, which is the basis of taxation under the current framework. In Australia, if you think about the distribution profit of an importer of, let's say, pharmaceuticals or computer equipment, we get to tax the distribution profit, not the research and development or the manufacturing profit. We've set out some practical compliance guidelines, which are public, that set out where our expectations are for a normal importer of such services. Concurrently, there is a discussion going on at the OECD around—

CHAIR: I'm sorry, Mr Hirschhorn. I'm going to have to you ask you to conclude your answer so I can go to Senator Roberts.

Mr Hirschhorn: Senator Rennick, I'll just say that under the current framework we get to tax what is done here and, for the current regime, the results that we get in terms of the profits we tax here are significantly higher than those achieved in many other jurisdictions.

Senator RENNICK: Just very quickly—

CHAIR: Senator Roberts.

Senator RENNICK: That \$1.3 billion in revenue—is that paid here to Australia?

Mr Hirschhorn: I can't really comment on individual companies.

CHAIR: Senator Roberts.

Senator ROBERTS: Thank you for appearing again tonight, and congratulations to you, Mr Heferen. I don't think we've seen you since your appointment. My first question is about foreign buyers of real estate. Radio 2GB reported in April that foreign buyers accounted for 11 per cent of newly built homes in the final quarter of last year. This is a disaster for Australian homebuyers. Can you please provide that data for each quarter over the previous 12 months—the proportion of newly built homes bought by foreigners?

Mr Thompson: I think the 2GB article would have been using the National Australia Bank—

Senator ROBERTS: That's my understanding.

Mr Thompson: As I think I've talked about at the committee before, there are a number of differences between the National Australia Bank survey and our data. So the National Australia Bank's data is from a survey, so it asks real estate and other real estate professionals to estimate. I think the exact question in that survey is about overseas buyers. Our numbers are coming from state and territory land title offices, which are matched against Home Affairs data and Australia Electoral Commission data. There is a very significant gap between the numbers that appear in that survey and the numbers that we get. Our numbers are based on the definition of a foreigner under the Foreign Acquisitions and Takeovers Act. I think last week we released the 2022-23 numbers, which would put the estimate at around one per cent.

Senator ROBERTS: Moving onto the first home super saver scheme, I'm quoting from the eligibility requirements in guidance note 2018/1:

There is no requirement for you to be an Australian citizen, Australian resident or an Australian resident for taxation purposes.

Why are we allowing foreigners—not even residents for taxation purposes—access to this scheme, which is meant to be for getting Australians into their first home?

Mr Heferen: That would be a policy question for our colleagues at the Treasury.

Ms Brown: It is a policy question for Treasury, but the appropriate group for it to be directed to is markets group. That is administered by our Retirement, Advice and Investment Division in markets group. We can take it on notice and have them provide a reply.

Senator ROBERTS: I want to come back to foreign ownership again. I refer to table 3 of the answer to question on notice SBE106 from the November estimates. Through the Department of Home Affairs visa data-matching program, how many of the real property transfer report entities records that are automatically matched to ATO records are foreign?

Mr Thompson: As we've answered previously, we're not able to—the question was, 'How many do we automatically match?' and 'How many do we have to go away and do additional things to match?'

Senator ROBERTS: I'm coming to that.

Mr Thompson: If you think about it coming through the system: if it's an exact match, that's all automated. There would be a range of circumstances where we don't get an automatic match. It could be that the date of birth's the wrong way. It could be a maiden name. In those circumstances, we have additional processes to match. We work down through every record. In the automatic matches, there will be some foreigners. In the ones we can't automatically match, there will be some foreigners.

Senator ROBERTS: What percentage?

Mr Thompson: At that point—

Senator ROBERTS: You can't tell us?

Mr Thompson: The numbers in that answer to the question on notice were addressing how many we automatically match versus how many we perform additional—

Senator ROBERTS: Correct. How many that were matched were foreigners?

Mr Thompson: If the question is about the compliance results that we get, they're published—

Senator ROBERTS: My question is: what percentage of buyers are foreigners?

Mr Thompson: One per cent.

Senator ROBERTS: Could you provide to me on notice the numbers of foreign buyers for the last five years.

Mr Thompson: We publish that. I've got the latest public—

Senator ROBERTS: Okay, if you could take it on notice for the last five years.

Mr Thompson: I'll take it on notice.

Senator ROBERTS: From table 4, immediately below that from the same question on notice from November estimates, how many of the entity records that were not able to be automatically matched to ATO records remain unverified or unresolved?

Mr Thompson: None.

Senator ROBERTS: How many unmatched records from the data-matching program remain unresolved from 2018 to date?

Mr Thompson: I think that's the same question.

Senator ROBERTS: I want to go right back to 2018.

Mr Thompson: I'll take that one on notice.

Senator ROBERTS: How many residential properties in Australia are owned by foreigners today?

Mr Thompson: I think that is the question around the register.

Senator ROBERTS: I just want to know how many foreigners own real estate. We've got a housing crisis. We've got people in Brisbane and all up and down the east coast of Queensland in major provincial cities sleeping under bridges and in cars, taking families home.

Senator Gallagher: Yes, but I think it's very simplistic to say that that housing shortage is a result of foreign investment in residential housing. We've had a number of hearings where you've been told how relatively low that level is in comparison to non-foreign owned.

Senator ROBERTS: I'd like the exact numbers.

Senator Gallagher: And we'll provide that number to you, but the link that you are saying—that foreign ownership of properties equals some of what you've been talking about and is a real issue in Brisbane—is not right. The issue is supply. We've got to build more houses for people, not blame foreigners for it.

Senator ROBERTS: I've never said it's entirely due to foreigners, but that is one—

Senator Gallagher: We need to make sure that the rules are tight, that there are restrictions in place, which there are, so that that arrangement works properly. But it's not fair to say that the housing crisis is because we've got some small foreign-owned investments.

Senator ROBERTS: I didn't say that. I said that's one contributing factor.

CHAIR: I'll just do some committee administration here. I'll table three documents—the three articles referenced by Senator O'Neill earlier. The committee has agreed to a time management plan to conclude questions, so last question, Senator Roberts.

Senator ROBERTS: I'd like to make the point that the witnesses have provided answers so late, in the past, that they've been distributed at 8 pm on the day before they appear in Senate estimates, 100 days after the last hearing, and failing to raise any public interest immunity claims on answers they don't give. That's a clear frustration of the committee's work.

Senator Gallagher: We will try and do better, Senator Roberts. We have had a long discussion about the number of questions on notice which are coming in and having to be managed by departments, but I agree: it's an important accountability measure, and departments should work to meet the timeframes.

Senator ROBERTS: When it's 100 days, it's way late, and then it suddenly comes in at 8 pm on the night before.

Senator Gallagher: Yes. I understand your frustration.

CHAIR: Thank you, Senator Roberts. Senator Colbeck.

Senator COLBECK: I just want to get an update on the inquiries into PwC that you're undertaking—we'll need to be succinct with answers here, because we're under strict time management. You still have nine inquiries underway?

Mr de Cure: The evidence we've previously given remains intact. We have nine investigations in train. I don't want to provide any additional description of those, to preserve the sanctity of the investigations. We have a timeframe and hope to complete them in an orderly fashion.

Senator COLBECK: What is that timeframe?

Mr de Cure: We hope to conclude a couple of the larger ones in the course of this calendar year.

Senator COLBECK: Okay, but you have a legislated timeframe for completion?

Mr de Cure: We have a legislated timeframe to complete the investigations.

Senator COLBECK: Is it two years from the time of commencement?

Mr de Cure: Yes.

Senator COLBECK: We were advised at the last estimates that the information collected from the breach of confidentiality was used for more than just the design of tax schemes. Is there any further development on that, or is that the subject of an investigation in its own right?

Mr de Cure: I think it would compromise the investigations to answer that question.

Senator COLBECK: It was the TPB that put that information on the record at the last estimates—that it was being used for more than just designing tax schemes.

Mr de Cure: I think I'd like to not say anything further about that at this time, for the sake of those investigations.

Senator COLBECK: So there are no further inquiries—just the nine that have been commenced?

Mr de Cure: Just the nine that are running.

Senator COLBECK: I'll come to you, Mr Hirschhorn. Again, I have to be quick. You indicated to us at the last estimates that you were talking to the 'large business five' plus two other countries. Can you remind me who the large business five are, again, and who the other two were.

Mr Hirschhorn: Yes. I'll be joined by Deputy Commissioner Rebecca Saint. It's Australia, the US, the UK, Canada and the Netherlands.

Senator COLBECK: And the other two countries that were part of the conversation—was Ireland one of them?

Ms Saint: We haven't disclosed the other two countries where we provided disclosures of information. Those disclosures have been provided under tax treaties and are subject to secrecy provisions under those treaties.

Senator COLBECK: I'll go back and check my notes and the *Hansard* from last time, but I'm pretty sure we talked about two other countries which were named, and I think Ireland was one of them.

Ms Saint: My recollection of that conversation—and I'm happy to go back and check—was not necessarily that we disclosed what other countries we'd been discussing with, but I think Mr Hirschhorn provided some insights, perhaps, to some of the global models of businesses involved.

Mr Hirschhorn: If I recall the exchange correctly, I think I referred to three countries that were of particular interest to us in the context of these arrangements. They were the US, the UK and Ireland.

Senator COLBECK: Okay.

CHAIR: Last question.

Senator COLBECK: This won't take long. Are those conversations ongoing?

Ms Saint: Yes.

Senator COLBECK: Given the answer to the last question I asked the TPB, do those conversations line up with the evidence that was given to us at the last estimates that the information taken from the breach of confidence was used for more than just design of tax schemes?

Ms Saint: The conversations that we've been having at an international level have been occurring at a number of layers. There is obviously a very general strategic level, around adviser conduct more generally. In terms of specific conversations or disclosures around PwC, they've covered a range of topics, including the breach of confidentiality. But I can't go into further detail about what the specifics of those conversations or disclosures have been.

Senator COLBECK: I thought you might say that, but I had to ask the question.

Senator BRAGG: I have a couple of quick questions for ACNC, then a couple of quick questions on build-to-rent. ACNC, did you read in the *Financial Review* today the story about the Smart Energy Council?

Ms Woodward: I'm aware of it generally but I haven't got the detail.

Senator BRAGG: Basically the gist of the article was that the Smart Energy Council had claimed before the last election that it was not connected to Smart Voting, which was an entity that was handing out election paraphernalia recommending voting against particular persons and parties, but it has emerged after the election that the Smart Energy Council was financially supporting Smart Voting. Do you know about that?

Ms Woodward: I can't comment on whether we're investigating any particular charity or not.

Senator BRAGG: The Smart Energy Council, according to your register, it is actually the Australian Solar Energy Society. Is that right?

Ms Woodward: I'm sorry; I can't recall the details of the entry of every particular charity. I'm happy to take it on notice.

Senator BRAGG: Okay. Fair enough. But you're broadly aware of the organisation, I assume, because there has been media coverage.

Ms Woodward: In the very broad sense, yes.

Senator BRAGG: I understand you can't comment on particular cases, but this has deductible gift recipient status, so that means it's a charity, is it not?

Ms Woodward: Some charities have deductible gift recipient status, not all.

Senator BRAGG: This one does, according to your register. It says:

AUSTRALIAN SOLAR ENERGY SOCIETY LTD is endorsed as a Deductible Gift Recipient (DGR) from 01 Jan 2024.

Does that mean that it's a charity?

Ms Woodward: If it falls under the type of charity that gets deductible gift recipient status, which is implied by the Taxation Office. We assess the charitable status, and some of them, through that one form, go through to the tax office to have their tax status determined.

Senator BRAGG: So, if people give money to this organisation, they can receive a tax deduction—

Ms Woodward: That's what DGR means.

Senator BRAGG: because it's effectively a charity, even though it is seemingly engaging in political activity. Given you can't comment on any individual cases, if organisations like this are undertaking direct political engagement, where they're recommending voting against particular candidates and parties at elections, what confidence can you give the Senate, the parliament and the community that you're looking into these things?

Ms Woodward: Before the last election—as I say, I wasn't in the role, but I have been briefed—there were about 500 complaints received. About 20 charities—I can give you the exact numbers on notice—were contacted, and steps were taken to ensure that they weren't engaged in political advocacy or, to the extent that they were, they then stopped. We do follow up those complaints. Obviously it's usually heightened around an election, where people would be more likely to fall foul of that type of activity.

Senator BRAGG: Well, we'll look forward to your enforcement of the law there. Just finally, I have a question on build-to-rent. You've got a bill in parliament on cutting taxes for build-to-rent.

Ms Brown: That's right.

Senator BRAGG: Who are the target investors?

Ms Brown: The bill is targeted at foreign investors.

Ms Bultitude: There are two components. One of them goes to any investor, a depreciation component. The other component, which I think is the one that attracts most of the attention, is foreign investors that invest through managed investment trusts.

Senator BRAGG: Foreign investors and super funds, or not?

Ms Bultitude: Not super funds, no.

Senator BRAGG: This is only targeted at foreign investors?

Ms Bultitude: Yes.

Senator BRAGG: Not domestic investors?

Ms Brown: Domestic investors get the benefit of the first measure that Ms Bultitude mentioned, the depreciation.

Ms Bultitude: That's right.

Senator BRAGG: How many houses do you think these foreign investors are going to create in this new build-to-rent world?

Ms Bultitude: I'll ask the tax office division to answer that one.

Senator Gallagher: You might have to support it if it's not super funds.

Senator BRAGG: I'm interested in how many houses you think you might build. You're currently going backwards. You're currently building fewer houses than we were before.

Senator Gallagher: Andrew Bragg's war on super!

Senator BRAGG: I just want you to build more houses.

Senator Gallagher: You'll have to keep build to rent out of it.

Senator BRAGG: I want you to build more houses.

Senator Gallagher: We want to build more houses.

Senator BRAGG: I want you to build more and do better than what was the case before.

CHAIR: What's the plan?

Senator Gallagher: Why are you stopping us by not letting the legislation through?

Senator BRAGG: We want you to be successful.

Senator Gallagher: What about help to buy?

Senator BRAGG: That's a terrible idea, as you know. You just need some good ideas.

Senator Gallagher: Like all the ones you had in 10 years in government?

Senator BRAGG: I wasn't in government.

CHAIR: I'm thinking there's a question before the witnesses—is there?

Senator Gallagher: You were a member of the government.

Senator BRAGG: Not a member of the executive.

CHAIR: Ms Brown is going to help me. Ms Brown?

Ms Brown: Certainly.

Senator Gallagher: So only the good ideas were outside of the executive?

Senator BRAGG: Lots of good ideas there!

CHAIR: Ms Brown has some answers.

Ms Brown: If I could refer you to the press release from Minister Collins of 9 April 2024: the build-to-rent measures, according to industry estimates, are an extra 150,000 rental homes.

Senator BRAGG: 150,000 new houses?

Ms Brown: Yes. That was based on the policy announcement.

Senator BRAGG: These will all be owned by foreign fund managers?

Ms Brown: This is build-to-rent properties, which have strata apartments; at least 50 flats in each apartment. It will provide long-term tenancy.

Senator BRAGG: Which countries do think they'd mainly come from?

Ms Brown: The build-to-rent market is quite mature in the UK and in the US—much more mature than the Australian market. Targeting it at those investors will hopefully bring their expertise and scale to the Australian market, and so build scale that is currently missing in the Australian market. It would be the genesis of it being a healthy market.

Ms Bultitude: Canadian investors also. Canadian pension funds, for instance, but other managed—

Senator BRAGG: Just to recap: it would be 150,000 build-to-rent houses owned by the foreign fund managers?

Ms Brown: Over the next decade.

Senator BRAGG: Thank you.

CHAIR: There being no further questions at this time, that concludes the committee's consideration of the 2024-25 budget estimates this evening. Thank you, Minister and officers who've given evidence. Thank you to Hansard, Broadcasting and the committee secretariat.

Committee adjourned at 21:17